

MEMORANDUM FOR ALL USACE COMMANDS, ATTN: COUNSEL OFFICES

SUBJECT: Army-Wide Policy on Release of Certified Payroll Records to Labor Organizations

1. At our request, the Army General Counsel has rescinded the 20 December 1985 memorandum, which required release of names, home addresses, employee numbers, hours worked and wages paid, to labor organizations requesting certified payroll records. The only prospective guidance they have provided is: "Our determinations of whether to affirm withholding of information from Freedom of Information Act requestors are based on current case law." This is the same guidance we issued 22 April 1991 (see CECC-K FREEDOM OF INFORMATION ACT GUIDANCE Deskbook #11).
2. In general, names, home addresses and any other information that would identify an individual in certified payroll records should not be released. In making a release determination you should rely on DOJ v. Reporters Committee for Freedom of the Press, 489 U.S. 749 (1989), Hopkins v. H.U.D., 929 F.2d 81 (2d Cir. 1991), Painting and Drywall Work Preservation Fund v. H.U.D., 936 F.2d 1300 (D.C. Cir. 1991) and Painting Indus. Mkt Recovery Fund v. Department of the Air Force, 26 F.3d 1479 (9th Cir. 1994).
3. This guidance should be added to the CECC-K, FREEDOM OF INFORMATION ACT GUIDANCE Deskbook. If you have any questions, please contact Richard Frank at (202)272-0027.

Encls

MARTIN R. COHEN
Assistant Chief Counsel
for Litigation



DEPARTMENT OF THE ARMY
OFFICE OF THE GENERAL COUNSEL
104 ARMY PENTAGON
WASHINGTON DC 20310-0104

October 28, 1994



MEMORANDUM FOR THE JUDGE ADVOCATE GENERAL
✓CHIEF COUNSEL, OFFICE, CHIEF OF
ENGINEERS
COMMAND COUNSEL, ARMY MATERIEL COMMAND

SUBJECT: Army-Wide Policy on Release of Certified
Payroll Records to Labor Organizations

We recently received an inquiry as to the status
of our 20 December 1985 memorandum, subject as above,
(copy attached). It is hereby rescinded.

Our determinations of whether to affirm
withholding of information from Freedom of Information
Act requestors are based on current case law.

Lawrence M. Baskir
Principal Deputy General Counsel

Attachment

24 NOV 1994



DEPARTMENT OF DEFENSE
OFFICE OF THE GENERAL COUNSEL
WASHINGTON, D.C. 20310

20 December 1985

REPLY TO
ATTENTION OF

SAGC/Mr. Hoskins/pmd

MEMORANDUM FOR CHIEF COUNSEL, OFFICE, CHIEF OF
ENGINEERS
THE JUDGE ADVOCATE GENERAL
COMMAND COUNSEL, ARMY MATERIEL COMMAND

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In view of recent developments, this office in acting on future Freedom of Information Act (FOIA) appeals ordinarily will release names, home addresses, employee numbers, hours worked, and wages paid to labor organizations requesting certified payroll records. Social Security numbers and federal tax exemption information will not be released. A request for employee names and addresses may be denied if specific evidence exists that the release will result in harassment of the employees.

Please disseminate this guidance to local FOIA action offices to insure consistent resolution of future FOIA requests for certified payroll records.

Also, in the future this office will provide copies of its appeal decisions in significant cases to each Initial Denial Authority to whom it may be of interest. Again, we ask that you disseminate the guidance contained in these decisions to local FOIA action offices.

Signed Thomas F. Kranz

Thomas F. Kranz
Principal Deputy General Counsel

ASG
OGC (Subj/Chron)
Mr. Kranz
Mr. Hoskins

10/28/94